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PART II—Section 2

प्राधिकार से प्रकाशित

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NEW DELHI, WEDNESDAY, NOVEMBER 16, 1977/KARTIKA 25, 1899

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 16th November, 1977:—

BILL No. XIII OF 1977

A Bill further to amend the Requisitioning and Acquisition of Immovable Property Act, 1952.

Be it enacted by Parliament in the Twenty-eighth Year of the Republic of India as follows:

1. This Act may be called the Requisitioning and Acquisition of Immovable Property (Amendment) Act, 1977. Short title.

2. In the Requisitioning and Acquisition of Immovable Property Act, 1952 (hereinafter referred to as the principal Act), after section 25, the following section shall be inserted and shall be deemed to have been inserted with effect on and from the 21st day of March, 1977, namely:— Insertion of new section 26.

“26. (1) Notwithstanding anything contained in this Act, any immovable property requisitioned or purported to have been requisitioned by the Central Government or by any officer or authority to whom powers in this behalf have been delegated by that Government, under the Defence of India Act, 1971, and the rules made thereunder (including any immovable property deemed to have been Special provision as to certain requisitions under Act 42 of 1971.

requisitioned under the said Act), which has not been released from such requisition before the appointed day, shall.—

(i) if such property was requisitioned on or before the 21st day of March, 1977, as from that date, and

(ii) if such property was requisitioned at any time after such date, as from the date of its requisition,

be deemed to have been requisitioned by the competent authority under the provisions of this Act for the purpose for which such property was held immediately before the appointed day and all the provisions of this Act shall apply accordingly:

Provided that in determining the compensation payable under the Act in respect of any property so deemed to have been requisitioned under this Act, the sum or sums, if any, as may be found necessary to compensate the person interested for all or any of the matters specified in clause (b) of sub-section (2) of section 8 shall be reduced by the sum or sums, if any, paid or payable in respect of such matter or matters as compensation in respect of such property under the Defence of India Act, 1971, and the rules made thereunder.

(2) Save as otherwise provided in sub-section (1), the provisions of the Defence of India Act, 1971, and the rules made thereunder, in so far as those provisions relate to the requisitioning of any such immovable property as is referred to in sub-section (1), shall, as from the 21st March, 1977, cease to operate except as respects things done or omitted to be done before such cesser and section 6 of the General Clauses Act, 1897, shall apply upon such cesser of operation as if such cesser were a repeal of an enactment by a Central Act. 10 of 1897.

Explanation.—In this section “appointed day” means the 23rd September, 1977.

Repeal
and
saving

3. (1) The Requisitioning and Acquisition of Immovable Property (Amendment) Ordinance, 1977, is hereby repealed. Ord. 12 of 1977.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

On the expiry of the Defence of India Act on the 26th September, 1977 (i.e., six months from the date of revocation of the Proclamation of Emergency issued on the 3rd December, 1971), the properties which were requisitioned under section 23 of that Act and the properties which were originally requisitioned under the Defence of India Act, 1962, and deemed to have been requisitioned under section 33 of the Defence of India Act, 1971, would have ceased to be under requisition. As the Ministry of Defence considered it necessary to keep all these properties under requisition even after the 26th September, 1977, for purposes connected with the defence of the country and as Parliament was not in session, the Requisitioning and Acquisition of Immovable Property (Amendment) Ordinance, 1977, was promulgated by the Vice-President discharging the functions of the President on the 23rd September, 1977. The Ordinance amended the Requisitioning and Acquisition of Immovable Property Act, 1952, to provide that the aforementioned properties shall be deemed to have been requisitioned under that Act.

2 The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI,
The 11th November, 1977.

SIKANDER BAKHT.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to insert a new section 26 in the Requisitioning and Acquisition of Immovable Property Act, 1952.

2. The proviso to sub-section (1) of the new section 26 provides that in determining the compensation payable under the Act in respect of any property deemed to have been requisitioned under the Act by virtue of that section, the sums, if any, as may be found necessary to compensate the person interested for all or any of the matters specified in clause (b) of sub-section (2) of section 8 of the 1952 Act shall be reduced by the sum or sums, if any, paid or payable in respect of such matter or matters as compensation in respect of such property under the Defence of India Act and the rules made thereunder. Hence, while determining the amount of compensation payable in respect of these properties under the 1952 Act, any sums which may be found necessary to pay over and above the sums already paid or payable will be an additional expenditure that is likely to be incurred. It is not possible at this stage to estimate the amount of expenditure that will be involved as the same will depend on the agreement of the parties in cases where the compensation can be fixed by agreement and the determinations of arbitrators in other cases.

3. The recurring compensation which will be payable in respect of the properties which are deemed by virtue of the new section to have been requisitioned under the 1952 Act during the period of their requisition as a result of the enactment of the Bill will be practically the same as would have been payable if the properties had continued to remain under requisition under the Defence of India Act and the rules made thereunder. But the annual rent payable by way of compensation under the 1952 Act has to be revised quinquennially. This will involve an additional expenditure of a recurring nature. It is not possible to estimate such additional expenditure as the same will depend on the circumstances prevailing at the time of such revision.

4. As and when such of the said requisitioned properties as are required to be retained on a long term basis, are acquired, compensation would be payable on the basis of open market value as provided for by section 8 of the 1952 Act. It is again difficult to estimate how many of the requisitioned properties will have to be acquired and how much non-recurring expenditure will have to be incurred from year to year as a result of such acquisitions.

S. S. BHALERAU,
Secretary-General.